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HSC

The Honorable Robert N. Giaimo
Select Committee on Intelligence
House of Representatives
Washington, D. C. 20515

Dear Mr. Giaimo:

During the House Select Committee's hearing on August 6, you asked me to suggest "courses of approach for a Member of Congress" who comes into possession of highly classified information concerning certain activities "where he thinks a crime has been committed."

Certainly, when a Member of Congress has any information which, in his opinion, discloses that a crime has been committed, it would be appropriate for him to forward such information directly to the Attorney General. If the information is highly classified, it can be forwarded to the Attorney General in such manner as to preserve its classified nature.

I have given a lot of thought to the question of whether, and in what circumstances, it would be appropriate for a Member of Congress to make a public disclosure of such information. I have concluded that this is a question that should properly be addressed by the House of Representatives itself, rather than ~~by me, or any other~~ ^{to a} member of the Executive Branch. In this regard, you may be interested in a proposal made by some of your confreres in 1974. The House Select Committee on Committees, in its report of

March 21, 1974 (H.Rep 93-916 Part II), recommended the following addition to Rule X of the Rules of the House of Representatives:

"Handling of Classified Information

"5.(a) All information and data whether written or oral received by any committee or Member of the House which is classified Secret or higher as a national security matter by the originator shall be deemed to have been received in executive session, and shall be subject to all of the rules and procedures of the House which restrict the disclosure of activities conducted and matters presented in executive session. No such information or data shall be disclosed to any person other than a Member, except to those House employees who have been properly cleared and can demonstrate a need to have such information or data in the performance of their official duties as such.

"(b) Any Member or employee receiving such classified information or data shall be notified of its classification and the restrictions on its disclosure. If in the judgment of the person providing the information or data there is special sensitivity (or in the case of a Member receiving the information otherwise than in the normal course of his committee participation) the Member or employee may be required to sign an acknowledgement that he or she understands and will abide by the restrictions on disclosure.

"(c) Each Member or employee who receives or may receive classified national security information or data shall be provided with a security manual governing its use and protection, together with copies of applicable statutes on the protection of official secrets and penalties for unauthorized disclosure thereof. Such manual and the clearance standards and procedures for the House (which shall meet the same standards or protection as those applied in the executive branch) shall be prepared by the special committee on intelligence and concurred in by the Speaker and the minority leader.

"(d) House employees (whether on committee staffs or on personal staffs of Members), before they may receive or be exposed to classified national security information or data, must be cleared by a process of investigation and certification which is appropriate to the level of sensitivity involved, following the criteria which apply in the executive branch.

"(e)(1) When a Member receives classified national security information or data otherwise than in the course of his or her committee activities, and believes it is over-or under-classified, he or she may request of the special committee on intelligence that such information or data (in the House) be declassified, or reclassified at another level, as appropriate.

"(2) When a Member receives classified national security information or data in the course of his or her committee activities, and believes it is over-or under-classified, he or she may request consideration of a change in classification by the committee. If the committee by majority vote agrees to the change, it may request such change of the special committee on intelligence.

"(3) The special committee on intelligence, if it agrees with any change requested under subparagraph (1) or (2), shall report its agreement with such change to the Speaker and the minority leader, and if they concur, the change shall automatically be made. If the decision of the special committee or of the leadership is adverse to such change, an appeal may be taken to the floor, in closed door session, at the direction of a majority of any committee.

"(4) Prior to any action by a Member or committee or the special committee on intelligence with respect to the reclassification of any information or data under this subparagraph, such reclassification shall be requested of the originator of the information or data, with a response requested within a period of seven legislative days. Such action shall not be taken prior to the conclusion of such period except in case of an emergency requiring immediate consideration by the House." (pp. 97-98).

Although I neither endorse nor disapprove of this recommendation, I think it correctly includes some of the procedures which must be followed if classified information is to be disclosed. For example, the recommendation provides that the decision to disclose should be made by committee, not by an individual member; it provides for reasonable notice to the Executive agency concerned, and opportunity for hearing, before the committee votes on whether to disclose; and it provides for appropriate appeals procedures in case either the individual member seeking disclosure or the agency attempting to prevent disclosure disagree with the committee decision.

Sincerely,

W. E. Colby
Director

note that there is an absence of
procedure I believe there should
be one & note that...

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TRANSMITTAL SLIP		DATE
TO: <i>OCC</i>		
ROOM NO.	BUILDING	
REMARKS: <i>Comments Please</i> <i>pgc handling</i>		
FROM: <i>SC/DCI</i>		
ROOM NO.	BUILDING	EXTENSION

FORM NO. 241
1 FEB 55

REPLACES FORM 36-8
WHICH MAY BE USED.

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